

3 January 1979

MEMCRANDUM FOR: Director of Central Intelligence

VIA: Deputy Director of Central Intelligence

FROM: Anthony A. Lapham
General Counsel

SUBJECT: ~~HPSCI Hearings on the Protection and Use of
National Security Information in Criminal
and Civil Litigation~~

1. ~~Action Requested: That you approve the recommendation
in paragraph 5, and sign the letter to Chairman Boland at
Tab D.~~

2. Background: Chairman Boland's letter to you of 22 December 1978 (Tab A) advises that the House Permanent Select Committee on Intelligence (HPSCI) will hold hearings in late January 1979 on the protection and use of national security information in criminal and civil litigation and asks that you designate witnesses to appear on your behalf to discuss problems the intelligence community has encountered in areas within the scope of the Committee's inquiry. Based on the Committee's statement of what it hopes to examine in the hearings (see "Prospectus," Tab B), the scope of the inquiry will be quite broad. While that scope includes some ground previously plowed by the SSCI, HPSCI intends to pick up where the Biden Subcommittee ended by examining, among other things, theories and specific proposals for amendment of the espionage laws and for making various unauthorized disclosures of classified information a crime, the legal theories for pre-publication review/restraint and post-publication remedies, the feasibility of special pre-trial procedures for national security cases, and, in closed session, why some actual espionage cases and damaging leaks were not investigated or prosecuted.

3. The above topics and other issues the HPSCI has identified will be a tall order for Congressman Morgan Murphy's Subcommittee on Legislation to tackle in just three and a half days of hearings. In addition to all of the above, HPSCI would like to hear from us on the recommendations contained in the Biden Subcommittee report. You have previously approved positions I suggested with respect to those recommendations (Tab C), so those positions should be the basis for our comments.

4. Staff Position: We have not yet had any discussion with the HPSCI staff on format and other aspects of the hearings. It is possible that we may need to obtain input from the Office of Security, the Special Security Center, and the DDO on some aspects, as for example the kinds of damage caused to intelligence interests by past leaks.

5. Recommendation: ~~That you designate the undersigned as your principal witness for the hearings, with the understanding that I can call on other components and individuals to assist as needed, and that you sign the letter to Chairman Boland at Tab D.~~

Anthony A. Lapham

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Attachments

APPROVED:



Director of Central Intelligence

4 JAN 1979

Date

DISAPPROVED:

Director of Central Intelligence

Date